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**REGULATION AND PUNISHMENT OF CONDUCT OF PUPILS OUT OF SCHOOL.**

The extent of the power and authority of school authorities over pupils away from the school room or school grounds raises interesting questions which have been decided in several cases. It is proper and right that such authority should extend beyond the confines of the school premises and affect the conduct of pupils elsewhere, even in the privacy of their homes, where such conduct is detrimental to the good order and best interests of the school, as where it has an evil effect on the proper administration of school affairs or tends to lower the moral tone of the school.<sup>1</sup> Thus it has been held that a pupil guilty of drunkenness while away from school may be expelled,<sup>2</sup> and that a pupil of immoral character is properly excluded from the school even though no acts within the school grounds manifest such character.<sup>3</sup>

A pupil may be punished for disrespectful language in regard to a teacher, used after he has returned home and is, with another school-mate, passing the teacher's house.<sup>4</sup> Punishment may be inflicted because of the violation of a rule prohibiting the use of profane language, quarrelling, or fighting among the pupils, even though the violation occurred after school hours and while the pupils were on their way to their homes.<sup>5</sup> Where a

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1. In *Kinzer v. Independent School Dist.*, 129 Iowa 441, 105 N. W. 686, 2 L. R. A. (N. S.) 496, 6 Ann. Cas. 996, the court said: "The conduct of pupils which directly relates to and affects the management of the school and its efficiency is within the proper regulation of the school authorities."

In *Burdick v. Babcock*, 31 Iowa 562, the court said: "If the effects of acts done out of school hours reach within the school room during school hours, and are detrimental to good order and the best interests of the pupils, it is evident that such acts may be forbidden. \* \* \* A pupil may engage in sports beyond school that will render him unfit to study during school hours. Cannot these sports be forbidden? The view that acts, to be within the authority of the school board and teachers for discipline and correction, must be done within school hours is narrow and without regard to the spirit of the law and the best interests of our common schools."

2. *Douglas v. Campbell*, 89 Ark. 254, 116 S. W. 211, 20 L. R. A., N. S., 496.

3. *Sherman v. Charleston*, 8 Cush. (Mass.), 160.

4. *Lander v. Seaver*, 32 Vt. 114, 76 Am. Dec. 156.

5. *Deskins v. Case*, 85 Mo. 485, 55 Am. Rep. 387.

In *Hutton v. State*, 23 Tex. App. 386, 59 Am. Rep. 776, 5 S. W. 122, it was held that a teacher could not be convicted for an assault be-

pupil purposely ran against a smaller boy, wounding him in the face, it was held that the teacher had the power to expel him for his refusal upon request to accompany the boy home.<sup>6</sup>

Under a statute providing that school directors may make rules and regulations for the government of pupils it was held that directors of a school had authority to prohibit pupils from playing in a football game purporting to be played under the auspices of the school by a team purporting to represent the school, though the game was not played in school hours nor on or near the school grounds.<sup>7</sup>

*Rule Requiring Pupils to Go Directly Home.*—A board of education may require pupils to go directly home when dismissed from school, under statutory authority to pass rules relative to anything that may advance the interest of education, the good government and prosperity of the free schools, and the welfare of the public concerning the same.<sup>8</sup>

It is not only the legal right under such statutory authority, but also the moral duty, of school authorities, to require children to go directly from school to their homes. All parents and others who have a proper regard for the welfare of their children should desire it. The dangers to which children are exposed when abroad, especially upon the streets of cities, are matters of common knowledge, and the welfare of the country demands that a most watchful safeguard should, so far as possible, accompany them when they are required or allowed to be away from home. Parents have a right to understand that their children will be promptly sent home after school, and in no other way can parents and teachers act in harmony to protect children from bad influences, bad companionship, and bad morals.

*Rule Forbidding Affiliation with Secret Societies.*—It is proper for school authorities to make rules forbidding pupils to join secret societies.<sup>9</sup> And a school board has, under a statute authorizing it to make regulations for the well-being of the school, authority to debar members of high-school fraternities

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cause of punishment inflicted upon a pupil for violation of a rule prohibiting pupils from fighting, although the fighting was away from the school and not during school hours.

6. *Beatty v. Randall*, 79 Mo. App. 226.

7. *Kinzer v. Independent School Dist.*, 129 Iowa 441, 105 N. W. 686, 3 L. R. A. (N. S.) 496, 6 Ann. Cas. 996.

8. *Jones v. Cody*, 132 Mich. 13, 92 N. W. 495, 62 L. R. A. 160.

9. *Wilson v. Board of Education*, 233 Ill. 464, 84 N. E. 697, 15 L. R. A., N. S., 1136; *Wayland v. Board of School Directors*, 43 Wash. 441, 86 Pac. 642, 7 L. R. A. (N. S.) 352. See *Stallard v. White*, 82 Ind. 278, 42 Am. Rep. 496.

organized against its will from participating in certain privileges attendant on membership in the school, such as connection with athletic teams, musical, literary, and military societies, and to deprive them of customary graduation honors, although the pupils joined the fraternities with the consent of their parents and held the meetings out of school hours.<sup>10</sup> Denial to members of secret societies the right of representing the public schools which they attend in any public capacity is not a denial of a natural right, or an unlawful discrimination against them.<sup>11</sup>

It is held that the trustees of a public university have the undoubted authority to prohibit the attendance of students upon the meetings of Greek-letter fraternities, or from having any other active connection with such organizations, so long as such students remain under the control of the university, whenever such attendance upon the meetings of, or other active connection with, such fraternities tends in any material degree to interfere with the proper relations of students to the university.<sup>12</sup>

*Publishing Derogatory Articles Violating No Promulgated Rule.*—A pupil may be punished for misconduct committed away from the school premises and out of school hours even though such conduct violates no promulgated rule of the school authorities. Thus where it appeared that two children had been suspended, with the proviso that they should not be readmitted unless they made an apology, because at the request of another pupil they had caused to be printed in a newspaper a piece of verse, being a lampoon on the rules of the school, written by such pupil, it was held that the school authorities had not exceeded their authority.<sup>13</sup> It seems that this action toward the offending pupils was rather severe and not very tactful, yet the holding of the court was proper. And in another case the court assumed that the school authorities had the right to suspend a pupil connected with the publication of articles tending to undermine the authority of the principal.<sup>14</sup> But in an Iowa case,<sup>15</sup> it was held that a school board was without power to suspend a

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10. *Wayland v. Board of School Trustees*, 43 Wash. 441, 86 Pac. 642, 7 L. R. A. (N. S.) 352.

11. *Wilson v. Board of Education*, 233 Ill. 464, 84 N. E. 697, 15 L. R. A. (N. S.) 1136.

12. *Stallard v. White*, 82 Ind. 278, 42 Am. Rep. 496.

13. *People v. District Board*, 135 Wis. 619, 116 N. W. 232, 16 L. R. A. (N. S.) 730, 128 Am. St. Rep. 1050.

14. *Morrison v. Lawrence*, 186 Mass. 456, 72 N. E. 91.

15. *Murphy v. Independent School District*, 30 Iowa 429.

pupil for writing a newspaper article holding up members of the board to ridicule in the absence of a rule as to such matters.

*Unwarranted Invasion of Parental Rights—Rules as to Attendance upon Shows and Social Functions and as to Study Periods.* The Supreme Court of Georgia has gone further than any other court in upholding a rule of the school authorities relating to the conduct of pupils outside of school hours. In a late case<sup>16</sup> it held that a rule inhibiting the attendance by pupils upon any show, moving picture show, or social function on any school night, except on Friday nights, and on Saturdays, so far as relates to attendance upon moving picture shows was not an unreasonable one; and that the school authorities had authority to expel pupils violating the rule in that respect. It seems that the rule in this instance can be condemned for interfering with matters that are within the proper scope of parental authority when the pupils are living at home. This view is sustained by a Missouri case<sup>17</sup> wherein it was held that school authorities had not power to promulgate a rule that no pupil should attend a social function during the school term. And it has been held that a rule that pupils must remain at home and study for a certain period on school nights was an unwarranted invasion of the rights of parents to the control of their children.<sup>18</sup> While school authorities should be upheld in their control and regulation of our school system, their power and authority should not be unlimited, and they should exercise their authority over and their desire to further the best interests of their scholars, with a due regard for the desires and inborn solicitude of the parents of such children. They should not too jealously assert their supposed prerogatives or carry their exercise too far.

BEIRNE STEDMAN.

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16. *Mangum v. Keith*, 95 S. E. 1.

17. *Dritt v. Snodgrass*, 66 Mo. 286.

18. *Hobbs v. Germany*, 94 Miss. 469, 49 So. 415, 22 L. R. A., N. S., 983.